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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,457	06/16/2005	Tannichi Ando	040249-0102	2587
22428 7590 10/02/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER TO, BAOQUOC N	
			ART UNIT 2162	PAPER NUMBER
			MAIL DATE 10/02/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/518,457

**Applicant(s)**

ANDO, TANNICHI

**Examiner**

BAOQUOC N. TO

**Art Unit**

2162

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06/1/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)
- Paper No(s)/Mail Date 06/16/2005
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-24 are presented for examination.

***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 06/16/2005. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1, 10, 11, 16, 17, 21-22 and 23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims directs to program per se or software per se.

Claims 9, 15 and 20 recite "recording medium" which are being interpreted as storage medium as disclosed in applicant specification paragraphs 1271-1272.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-24 are rejected under 35 U.S.C. 102(e) as being Matsuzaki et al. (Pub. No. 2003/0070172 A1).

As to claim 1, Matsuzaki discloses an information output device for outputting information having a hierarchical structure with an aggregate of said information as the unit thereof, comprising:

aggregate output control means for controlling the output of said aggregate based on an event response control program associated with said aggregate which contains said information being output, of event response control programs having described therein a command for an event associated with each of said aggregates, and in correspondence with said event (television program with broadcasting date) (paragraph 0061); and

information output control means for controlling the output of said information contained in said aggregate based on ordinal data associated with said aggregate, in which the output thereof has been instructed by said aggregate output control means, of ordinal data having described therein the output order of said information associated

with each of said aggregates (transmission frame identification information (e13)) (paragraph 0061).

As to claim 2, Matsuzaki discloses an information output device according to claim 1, wherein said aggregate output control means controls the output of said aggregate based on said event response control program associated with said aggregate containing said information being output, and said event response control program associated with said aggregate of the ancestor of said aggregate containing said information being output, and in correspondence with said event (broadcasting date and time and program) (paragraph 0061).

As to claim 3, Matsuzaki discloses an information output device according to claim 1, further comprising reproduction means for reproducing said information to be output based on the control of said information output control means and in correspondence with the type of said information (reproducing unit) (paragraph 0095).

As to claim 4, Matsuzaki discloses an information output device according to claim 1, further comprising event generation means for acquiring the outside status and generating said event (event show) (paragraph 0061)

As to claim 5, Matsuzaki discloses an information output device according to claim 1, further comprising memory control means for controlling the memory of said information, said event response control program, and said ordinal data (storing broadcasting content) (paragraph 0061).

As to claim 6, Matsuzaki discloses an information output device according to claim 1, further comprising communication control means for controlling the

transmission of a request of said aggregate, the reception of which has been instructed by said aggregate output control means, to the information provision device for providing said information, and controlling the reception of said information belonging to said requested aggregate as well as said event response control program and said ordinal data associated with said requested aggregate, provided from said information provision device (CA transmission unit) (paragraph 0064).

As to claim 7, Matsuzaki discloses an information output device according to claim 1, wherein said aggregate output control means rewrites said ordinal data (reproduce) (paragraph 0095)

Claim 8 is rejected as the same reason as to claim 1.

Claim 9 is rejected as the same reason as to claim 1, Matsuzaki discloses a recording medium having recorded thereon a computer-readable program for making a computer execute processing for controlling the output of information having a hierarchical structure with an aggregate of said information as the unit thereof (media multiplexing unit) (paragraph 0003).

Claim 10 is rejected under the same reason to claim 1, Matsuzaki discloses computer-readable program for making a computer execute processing for controlling the output of information having a hierarchical structure with an aggregate of said information as the unit thereof (system management unit) (paragraph 0004).

As to claim 11, Matsuzaki discloses an information reception device for receiving information having a hierarchical structure with an aggregate of said information as the unit thereof, comprising:

aggregate reception control means for controlling the reception of said aggregate based on an event response control program associated with said aggregate, which contains said information being output, of event response control programs having described therein a command for an event associated with each of said aggregates, and in correspondence with said event (television program with broadcasting date) (paragraph 0061); and

communication control means for controlling the transmission of the request of said aggregate, the reception of which has been instructed by said aggregate reception control means, to the information provision device for providing said information, and controlling the reception of said information belonging to said requested aggregate and said event response control program associated with said requested aggregate provided from said information provision device (CA associated with information management unit...) (paragraph 0064).

As to claim 12, Matsuzaki discloses an information reception device according to claim 11, wherein said aggregate reception control means controls the reception of said aggregate based on said event response control program associated with said aggregate containing said information being output, and said event response control program associated with said aggregate of the ancestor of said aggregate containing said information being output, and in correspondence with said event (broadcasting date and time and program) (paragraph 0061).

As to claim 13, Matsuzaki discloses an information reception device according to claim 11, further comprising memory control means for controlling the memory of said received information and said event response control program.

Claim 14 is rejected under the same reason as to claim 1.

Claim 15 is rejected under the same reason as to claim 2, Matsuzaki discloses a recording medium having recorded thereon a computer-readable program for making a computer execute processing for controlling the reception of information having a hierarchical structure with an aggregate of said information as the unit thereof (media multiplexing unit) (paragraph 0003).

Claim 16 is rejected under the same reason as to claim 1, Matsuzaki discloses a computer readable program for making a computer execute processing for controlling the reception of information having a hierarchical structure with an aggregate of said information as the unit thereof (system management unit) (paragraph 0004).

As to claim 17, Matsuzaki discloses an information provision device, comprising:  
memory control means for controlling the memory of said information having a hierarchical structure with an aggregate of said information as the unit thereof, and controlling the memory of event response control programs having described therein a command for an event on the reception side associated with each of said aggregates (television program with broadcasting date) (paragraph 0061); and

transmission control means for controlling, when said aggregate is requested from said information reception device for receiving said information, the transmission of said information belonging to said requested aggregate and said event response control



program associated with said requested aggregate, to said information reception device (CA associated with information management unit...) (paragraph 0064).

As to claim 18, Matsuzaki discloses an information provision device according to claim 17, wherein said memory control means further controls the memory of ordinal data having described therein the output order of said information associated with each of said aggregates; and when said aggregate is requested from said information reception device, said transmission control means further controls the transmission of said ordinal data associated with said requested aggregate to said information reception device (CA associated with information management unit...) (paragraph 0064).

Claim 19 is rejected under the same reason as to claim 18.

Claim 20 is rejected under the same reason as to claim 18, Matsuzaki discloses a recording medium having recorded thereon a computer-readable program (media multiplexing unit) (paragraph 0003).

Claim 21 is rejected under the same reason as to claim 18, Matsuzaki discloses a computer-readable program (system management unit) (paragraph 0004).

As to claim 22, Matsuzaki discloses a program for controlling the output or reception of information having a hierarchical structure with an aggregate of said information as the unit thereof, wherein said program is associated with a first aggregate, which is an aggregate among said aggregates (system management unit) (paragraph 0004); said program is read into the computer for controlling the output or reception of said information when said information belonging to said first aggregate or said information belonging to the aggregate of the descendant of said first aggregate is

being output (television program with broadcasting date) (paragraph 0061); and said program makes said computer execute at least one of the output of a second aggregate, which is another aggregate among said aggregates and the reception of said second aggregate when a prescribed event occurs (pay broadcasting) (paragraph 0004).

As to claim 23, Matsuzaki discloses an information provision system comprising an information provision device for providing information having a hierarchical structure with an aggregate of said information as the unit thereof, and an information reception device for receiving said information; wherein said information provision device (television program with broadcasting date) (paragraph 0061) comprises:

memory control means for controlling the memory of said information hierarchical structure, and controlling the memory of event response control programs having described therein a command for an event in the information reception device associated with each of said aggregates (CA associated with information management unit...) (paragraph 0064); and

transmission control means for controlling, when said aggregate is requested from said information reception device, the transmission of said information belonging to said requested aggregate and said event response control program associated with said requested aggregate to the information reception device (pay broadcast) (paragraph 0004); and

wherein information reception device comprises: aggregate reception control means for controlling the reception of said aggregate based on an event response

control program associated with said aggregate, which contains said information being output, of the event response control programs, and in correspondence with said event (CA associated with information management unit...) (paragraph 0064); and

communication control means for controlling the transmission of the request of said aggregate, the reception of which has been instructed by said aggregate reception control means, to the information provision device, and controlling the reception of said information belonging to said requested aggregate and said event response control program associated with said requested aggregate, provided from said information provision device (transmission the broadcast) (paragraph 0004).

As to claim 24 is rejected under the same reason as to claim 23.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fernando et al. (US. Patent No. US 6,363,345 B1) discloses hierarchical program object to be broadcast based on events.

Takashima (Pub. No. US 2008/0050849 A1) discloses hierarchical object program for broadcast based on events and reproduce.

### ***Contact Information***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baoquoc N. To whose telephone number is at 571-272-4041, or unofficial fax number for the purpose of discussion (571) 273-4041 or via e-

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mail BaoquocN.To@uspto.gov. The examiner can normally be reached on Monday-Friday: 8:00 AM – 4:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached at 571-272-4107.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231.

The fax numbers for the organization where this application or proceeding is assigned are as follow:

(571) 273-8300 [Official Communication]

/Baoquoc N To/

Primary Examiner, Art Unit 2162

September 28<sup>th</sup>, 2008